

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 1078

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Keith J. Gardner

AN ACT

RELATING TO AIRCRAFT LIENS; PROVIDING ENFORCEMENT OF LIENS ON
AIRCRAFT TO BE DISMANTLED OR DESTROYED THAT HAVE NO CURRENT
REGISTRATION OR ARE UNDER FOREIGN REGISTRY; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 48-3-29 NMSA 1978 (being Laws 1985,
Chapter 92, Section 1) is amended to read:

"48-3-29. LIEN FOR REPAIR OR SERVICE TO AIRCRAFT--
DETENTION--PRIORITY--ENFORCEMENT.--

A. Any person engaged in the business of operating
an airport, hangar or place for maintenance or repair of
aircraft who stores, maintains or repairs [~~any~~] aircraft
accessories or furnishes materials for an aircraft at the
request or with the consent of the owner or [~~his~~] the owner's

.167360.1

underscored material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

1 representative, agent or lessee, whether the owner is a
2 conditional vendee or a mortgagor or in possession or not,
3 shall have a lien upon the aircraft or any part thereof for the
4 sum due for storing, maintaining or repairing the aircraft for
5 labor furnished, for accessories or materials and for all costs
6 incurred in enforcing the lien and may detain the aircraft
7 until the sum due is paid. The possessory lien shall have
8 priority over all other liens, including recorded liens on the
9 aircraft, except liens for taxes, and the operator of the
10 aircraft shall be deemed the agent of any owner, mortgagee,
11 conditional vendor or other lienor of the aircraft for the
12 establishment of that lien.

13 B. If the person who provides the services provided
14 in Subsection A of this section relinquishes possession of the
15 aircraft due to the acceptance or receipt of a check, draft or
16 written order for payment of the indebtedness due on the
17 aircraft, but the check, draft or written order for payment is
18 returned because of insufficient funds, no account, closed
19 account or issuance of a stop-payment order, or if possession
20 is lost due to the illegal acts of the owner or ~~his~~ the
21 owner's agent, the possessory lien on the aircraft shall
22 continue for a period of thirty days from the date actual
23 possession was relinquished or lost. At the expiration of the
24 thirty days, the lien shall continue but shall be subordinate
25 to prior recorded liens on the aircraft. The lien shall not be

.167360.1

underscored material = new
[bracketed material] = delete

1 applicable to a bona fide purchaser for value without notice of
2 an aircraft lien or to a bona fide encumbrancer for value
3 without notice of the aircraft lien, if the sale or encumbrance
4 occurs subsequent to the relinquishment or loss of possession.

5 C. At any time, the aircraft upon which a lien is
6 claimed may be repossessed.

7 D. Any person entitled to a lien pursuant to
8 Subsection A of this section shall, within ninety days after
9 the date on which labor was last performed or materials,
10 supplies or services last furnished, file in the office of the
11 county clerk of the county in which the aircraft is based, or
12 where the labor was performed or materials, supplies or
13 services furnished, a statement verified by oath. The
14 statement shall include the name of the person entitled to the
15 lien, the name of the owner of the aircraft, a description of
16 the aircraft and the sum due for labor performed or materials,
17 supplies or services furnished.

18 E. The lien perfected pursuant to Subsection D of
19 this section may be enforced against the aircraft, whether or
20 not in the possession of the lienholder, by judgment of the
21 court having jurisdiction in the county where the lien is filed
22 and a writ of execution pursuant to that judgment. The court
23 may, in its discretion, award reasonable ~~[attorney's]~~ attorney
24 fees to the prevailing party.

25 F. Aircraft liens perfected pursuant to this

.167360.1

underscoring material = new
[bracketed material] = delete

1 section for a sum due for storing, maintaining or repairing an
2 aircraft for labor furnished, for accessories or materials and
3 for all costs incurred in enforcing the lien, where a record of
4 the registration with the federal aviation administration
5 cannot be found or the aircraft is of foreign registry, shall
6 be enforced as provided in Subsection E of this section. In
7 the event that the aircraft is to be dismantled or destroyed it
8 shall not be necessary, following execution of a judgment, to
9 transfer title to the aircraft under the provisions of the
10 foreign registry or the federal aviation administration to the
11 purchaser at a sheriff's sale; provided, that notice of the
12 destruction or dismantling and of termination of the
13 registration shall be provided by the purchaser to the federal
14 aviation administration or the seat of the foreign registry.
15 The sheriff's bill of sale shall be sufficient to transfer the
16 aircraft for the purpose of dismantling and destruction."

17 Section 2. EMERGENCY.--It is necessary for the public
18 peace, health and safety that this act take effect immediately.

19 - 4 -
20
21
22
23
24
25

.167360.1